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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

**CITY AND COUNTY OF SAN FRANCISCO, et al.,**

3:18-CV-07591-CRB

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## PURDUE PHARMA L.P., et al.,

**MOTION FOR STAY OF MARCH 5,  
2021 ORDER AND FOR  
RECONSIDERATION OF  
DEFENDANTS' MOTION TO COMPEL  
PRODUCTION OF CURES DATA FROM  
CITY AND COUNTY OF SAN  
FRANCISCO**

**Defendant.**

Date: March 17, 2021  
Time: 9:00 A.M.  
Courtroom: 6  
Judge: Hon. Jacqueline Scott Corley  
Trial Date: To Be Set  
Action Filed: March 13, 2020

The California Department of Justice (the “Department”), HERBY MOVES FOR A STAY OF THE MARCH 5, 2021 ORDER AND FOR RECONSIDERATION OF DEFENDANTS’ MOTION TO COMPEL PRODUCTION OF CURES DATA FROM CITY AND COUNTY OF SAN FRANCISCO. This motion is being made under the Courts inherent power to reconsider and modify its own interlocutory orders prior to the entry of judgment. *Smith v. Massachusetts* (2005) 543 US 462, 475, 125 S.Ct. 1129, 1139.

1       There is good cause to grant the present motions, as the Department is not a party in this  
 2 action, it had not yet appeared in the present action, it was not served with Defendants' Motion to  
 3 Compel Production of CURES Data from the City and County of San Francisco, it was not  
 4 attendance at the hearing, and it was not able to present any argument on such motion. The  
 5 Department has an interest in assuring that the privileges, privacy and confidentiality of the  
 6 CURES data that the Plaintiff has been ordered to produce are upheld.

7       The Department maintains the underlying data that is the possession of Plaintiff, in  
 8 confidence and it has an interest in taking action to protect the privacy of the individual patients,  
 9 prescribers, and pharmacies who have not had an opportunity to voice an objection or otherwise  
 10 oppose to the release of this private and confidential data. As is set forth more fully in the  
 11 Department's Opposition to Walgreens' Motion to Compel Production of CURES Data from the  
 12 Department (the "Department's Opposition"), which is set to be heard on March 17, 2021, the  
 13 Department maintains the Controlled Substance Utilization Review and Evaluation System  
 14 ("CURES") which is a large database that contains a significant amount of prescription data  
 15 including confidential medical and other private data for patients, prescribers, and pharmacies in  
 16 the state of California. As is set forth more fully in the Department's Opposition there are number  
 17 of privileges, Constitutional and statutorily protected rights which appear not to have been  
 18 presented to the Court before it issued the March 5, 2021 Order which are relevant to the  
 19 determination of the motion underlying that order. The Department respectfully requests that this  
 20 Court reconsider its March 5 Order in light of the arguments presented in the Department's  
 21 Opposition and those that will be presented at the March 17, 2021 hearing. Until the Court has  
 22 time to hear and evaluate such arguments, the Department asks that this Court Stay the  
 23 enforcement of the March 5, 2021 Order. Once the Court has an opportunity to hear and consider  
 24 the arguments that will be before the Court on March 17, 2021, the Court will have sufficient  
 25 facts and legal authority consider all of the competing interests in the Defendants' requested  
 26 production of the CURES Data from the Plaintiff.

27       The present motion is based on the Court's inherent power to reconsider its own  
 28 interlocutory orders, the papers filed and argument presented at the March 3, 2021 hearing on

1 Walgreens' Motion to Compel Production of CURES Data by Plaintiff, the papers filed and the  
2 arguments that will be presented at the March 17, 2021 hearing on Walgreens' Motion to Compel  
3 the Production of CURES Data from the Department and nonparty California Board of  
4 Pharmacy's Motion to Quash, and other matters of which the Court may take judicial notice.

5 Dated: March 16, 2021

Respectfully submitted,

6 XAVIER BECERRA  
7 Attorney General of California  
MICHELLE M. MITCHELL  
8 Supervising Deputy Attorney General

9  
10 /s/ *Keith L. Wurster*  
11 KEITH L. WURSTER  
12 Deputy Attorney General  
*Attorneys for Non-Party California*  
*Department of Justice*

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## CERTIFICATE OF SERVICE

Case Name: **City and County of San Francisco, et al. v. Purdue Pharma LP, et al [Third-party discovery]** No. **3:18-CV-07591-CRB**

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I hereby certify that on March 16, 2021, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

**MOTION FOR STAY OF MARCH 5, 2021 ORDER AND FOR RECONSIDERATION OF DEFENDANTS' MOTION TO COMPEL PRODUCTION OF CURES DATA FROM CITY AND COUNTY OF SAN FRANCISCO**

**DECLARATION OF KEITH L. WURSTER IN SUPPORT OF NON-PARTY CALIFORNIA DEPARTMENT OF JUSTICE'S MOTION FOR STAY OF MARCH 5, 2021 ORDER AND FOR RECONSIDERATION OF DEFENDANTS' MOTION TO COMPEL PRODUCTION OF CURES DATA FROM CITY AND COUNTY OF SAN FRANCISCO**

**PROPOSED ORDER**

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

I further certify that some of the participants in the case are not registered CM/ECF users. On March 16, 2021, I have caused to be mailed in the Office of the Attorney General's internal mail system, the foregoing document(s) by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within three (3) calendar days to the following non-CM/ECF participants:

Jennifer Machlin Cecil  
Winston & Strawn LLP  
101 California Street, 35<sup>th</sup> Floor  
San Francisco, CA 94000

Paul Laprairie  
Andrus Anderson LLP  
155 Montgomery Street, 900  
San Francisco, CA 94104

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on March 16, 2021, at Sacramento, California.

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Lindsey Cannan

Declarant

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/s/ *Lindsey Cannan*

Signature